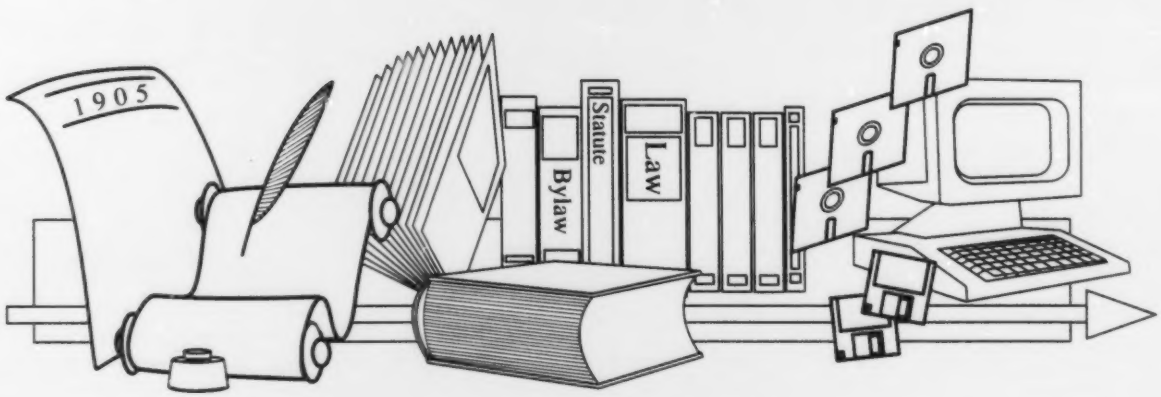
Legislation Paper

Discussion Draft

Alberta Municipal Assessment Corporation Act

Response Deadline: June 14, 1991



Alberta

Municipal Statutes Review Committee

91-04569/

FOREWORD

This Discussion Draft is another in the series of papers published by the Municipal Statutes Review Committee to generate discussion on provincial legislation affecting municipal government in Alberta.

READERS SHOULD UNDERSTAND THAT THE PROPOSALS IN THIS DISCUSSION DRAFT MAY BE CHANGED SUBSTANTIALLY BY THE COMMITTEE WHEN IT MAKES ITS FINAL REPORT IN RESPONSE TO COMMENTS RECEIVED.

THE PROPOSAL IN THIS DISCUSSION DRAFT HAS NOT BEEN SUBMITTED FOR POLICY APPROVAL BY THE GOVERNMENT PRIOR TO PUBLICATION OF THIS PAPER.

THE COMMITTEE'S FINAL REPORT ON THIS PROPOSAL WILL BE MADE IN LATE JUNE, 1991. AT THAT TIME THE GOVERNMENT WILL REVIEW THE REPORT AND MAY CHANGE IT FROM A POLICY PERSPECTIVE. IT MAY ALSO BE ALTERED FROM A DRAFTING PERSPECTIVE DURING THE VARIOUS STAGES OF LEGISLATIVE REVIEW.

Interested persons are invited to submit comments or suggestions on or before June 14, 1991, to

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INTRODUCTION

In June, 1988, the Municipal Statutes Review Committee distributed the Preliminary Draft Discussion Paper No. 4 titled "How should municipalities be financed?" Among the questions raised in the paper was "Should Alberta consider establishing an Assessment Authority?"

Responses indicated sufficient interest that the Committee decided it should pursue the matter further. In November 1988, the Second Draft Discussion Papers proposed the establishment of an authority as one of the drat statements to be included in the Committee's recommended municipal policy statement.

In its April 1989 report "Municipal Government in Alberta: A review of yesterday and today; a proposal for tomorrow", the Committee reported its conclusion (page 19) that "the integrity of the assessment system might be enhanced if all assessments were carried out under the direction of an assessment authority ... The committee intends to do further research on this subject so that an informed recommendation may be prepared."

The Committee took advantage of consultations with British Columbia municipal officials to gain indepth knowledge of the operations of that province's assessment authority and the opinions of municipal officials regarding it.

In October, 1990, the Committee published a Special Issue Paper on Assessment in which it reported its conclusion that

"the people and municipal governments of Alberta would be best served if a market value approach to assessment was used by a central assessment administration, referred to as an assessment authority"

and invited comments on that conclusion.

Responses received indicated a general support for an assessment authority.

Status	Equalized Assessment	Population
Cities	87.2%	85.6%
Towns	18.4%	17.7%
Villages	18.7%	11.4%
Rurals	26.3%	18.3%
Total	63.5%	64.0%

The percentages shown are for the equalized assessment or population within the status of municipality represented by those who responded positively. The "total" is the percentage of all the equalized assessment or population in the province represented by those who responded positively.

Opposition was expressed by municipalities representing 13.8% of the equalized assessment and 11.3% of the population. Rurals (41.4% and 46.0%) were strongest in their opposition. No response was received from municipalities representing 22.7% of the equalized assessment and 24.7% of the population.

Those opposed suggested that the establishment of an authority ran contrary to the general trend of decentralization of government services. They expressed concerns about the potential remoteness of the assessor from both the municipality and individual property owners. Concerns were expressed regarding the administrative adjustments required of municipalities which employ assessors who have other duties besides assessment and about job security for existing assessors. Some municipalities thought that an assessment authority would be more expensive than the existing system.

Discussions at the spring convention of the Alberta Association of Municipal Districts and Counties reaffirmed the strong opposition of many of these municipalities to the concept.

COMMITTEE POSITION

The Committee remains convinced that the people and municipal governments of Alberta would be best served by an assessment administration that is separate and apart from municipal taxing authorities and from the provincial government. Therefore the Committee has drafted an Act which presents a proposal for direct comment.

In this draft Act, the assessment administration is titled the "Alberta Municipal Assessment Corporation". All municipalities would be members of the Corporation and the affairs of the Corporation would be governed by a Board of Directors appointed by the Lieutenant Governor in Council after consultation with the municipal associations.

The Corporation would have the powers of an individual and therefore could hire employees or contract with persons to carry out its work and could appoint them as assessors. The Corporation could also establish an administrative structure

with offices located across the province so that municipalities and individual property owners would have relatively convenient access to the assessors. The responsibilities of the Board are described in sections 14 & 15 of the proposed Act.

The Corporation would receive its funding from the sale of its services (section 22), a province-wide requisition for a new Alberta Assessment Fund (sections 24 and 25) and money appropriated by the Legislature (section 26). Based on experience elsewhere, it is anticipated that the Corporation would have the potential to earn revenues from, for example, the sale of market information in its possession.

The Committee is aware that many transitional issues remain to be addressed and that these are of particular interest to both municipalities and assessors. The role of the Committee, however, is recommend policy to the government. The government, upon adoption of the policy, is responsible for its implementation. The Committee is confident that the government would be cognizant of the effects on individuals when implementing this new initiative.

The Committee would welcome the comments of anyone interested in maintaining and improving a professional assessment system in Alberta. It would be particularly useful to the Committee if an explanation of any concerns could be included in the comments.

DISCUSSION DRAFT

PROPOSED
ALBERTA MUNICIPAL ASSESSMENT CORPORATION ACT

April 1991

Introductory note

This draft is a preliminary model for the establishment of the Alberta Municipal Assessment Corporation to administer and prepare property valuations and business and other assessments in Alberta. The Corporation is proposed as an entity separate and distinct from both the Provincial Government and municipal taxing authorities.

The MSRC is particularly concerned to hear about how membership in the Corporation should be structured and to address transitional issues without interfering with the necessary autonomy of the new Corporation.

The MSRC welcomes comment on these and other matters in the draft.

PROPOSED ALBERTA
MUNICIPAL ASSESSMENT CORPORATION ACT

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PROPOSED ALBERTA
MUNICIPAL ASSESSMENT CORPORATION ACT

Note: Some words in this draft have specially defined meanings. The special meanings are set out in the Schedule to this draft.

(Enacting words)

1 Purpose

The purpose of this Act is to establish the Alberta Municipal Assessment Corporation, to be operated separate and distinct from the Government of Alberta and municipalities, having a mandate to

(a) establish systems, methods and procedures to provide uniform and equitable assessed values and assessments in accordance with the *Property Assessment Act* and regulations under that Act, and

(b) perform the functions given to it under this or any other enactment.

PART 1

ALBERTA MUNICIPAL ASSESSMENT CORPORATION

2 Establishment

(1) A corporation is established with the name "Alberta Municipal Assessment Corporation".

(2) The Alberta Municipal Assessment Corporation is an independent corporation to be operated separate and distinct from the Government of Alberta and municipalities, but taking their views into account.

(3) The Corporation has, as its members, every municipality in Alberta.

NOTE TO READER: The Municipal Statutes Review Committee (MSRC) solicits comments on the membership of the corporation. Success of the Corporation would be assured if all municipalities were members of it. An ability for municipalities to "opt in" or "opt out" at will would defeat the purpose of the proposal.

Comments are requested on a possible "opt out" on a one time basis only (with the option of opting in at a later time), or on other arrangements.

3 Basic rights, powers and privileges

The Alberta Municipal Assessment Corporation has the rights, powers and privileges of an individual, except as they are modified or restricted by its corporate status, or by this or other enactments.

NOTE TO READER: With the powers of a "natural person" the Corporation will be able to hire employees, establish a management structure, enter into contracts, borrow money and engage in other activities as required.

4 Board of directors

(1) A board of directors is established for the Alberta Municipal Assessment Corporation to exercise the functions, duties and powers of the Corporation under this and other enactments.

(2) On the recommendation of the Minister[1], the Lieutenant Governor in Council may appoint, as directors of the Corporation

(a) a person to chair the board of directors, and

(b) any other persons that are considered necessary.

(3) Before making recommendations about the directors to be appointed, the Minister must consult the Presidents of

(a) the Alberta Association of Municipal Districts and Counties,

1 "Minister" is defined in the Schedule as the Minister of Municipal Affairs.

(b) the Alberta Urban Municipalities Association,

(c) the Association of Summer Villages of Alberta, and

(d) the Improvement Districts Association of Alberta.

5 Restrictions on appointees

(1) A person who holds elected office in any government is not eligible to be recommended or appointed as a director.

(2) If a director is elected to an office in a government the person's directorship on the board of directors automatically terminates.

6 Term of office

(1) The chairman of the board of directors holds office for 6 years and may be appointed for one additional term of 3 years.

(2) Other directors hold office for 3 years, subject to subsections (3) and (5).

(3) Directors may be reappointed for one term, and the Minister may order that a director whose term expires, and who is not reappointed, may continue to serve as a temporary director until completion of a project, work or a report on which the director is engaged.

(4) A person continued as a temporary director is considered to be a director for all purposes.

(5) The first appointments of some of the directors must be for less than 3 years in order to provide for subsequent continuity of directors.

(6) A director may resign by giving written notice to the chairman of the board of directors.

7 Vacancies

A vacancy on the board of directors is to be filled for the unexpired term in the same manner as the original appointment was made.

8 Administration and organization

(1) The chairman of the board of directors must chair meetings of the board (unless absent or otherwise unable to do so) and may

(a) appoint one or more directors as vice chair of the board;

(b) act on behalf of the Alberta Municipal Assessment Corporation in connection with anything relating to its affairs, subject to any direction or decision made by the board of directors;

(c) delegate any power, duty or function conferred or imposed on the chairman to a vice chair, but the chairman retains authority to exercise or perform the power, duty or function.

(2) If the chairman of the board of directors does not preside at a meeting of the board, a vice chair may do so.

(3) The board of directors may delegate any power, duty or function conferred or imposed on the board or the Corporation under this or another enactment to one or more directors, to the Executive Director, or to a person employed or engaged by it, and permit subdelegation, except the power to make rules under section 15.

9 Quorum

A quorum of the board of directors is a majority of the directors holding office.

10 Management responsibilities

(1) The board of directors must appoint a person as the Executive Director of the Alberta Municipal Assessment Corporation.

(2) The Executive Director

(a) is the chief executive officer of the Corporation,

(b) has control over and is responsible for the organization, administration and management of the Corporation, its staff and their activities subject to the direction of the board of directors, and

(c) is responsible to the board of directors for the Corporation's activities.

11 Fees and expenses

The chairman of the board of directors and other directors are to be paid the remuneration or fees and expenses specified by the board of directors and approved by the Lieutenant Governor in Council.

12 Appointment of assessors

The board of directors may appoint persons as assessors.

NOTE TO READER: The appointment could be of employees of the Municipal Assessment Corporation, or private contractors, or both.

13 Liability

The board of directors, individual directors, officers and employees of the Alberta Municipal Assessment Corporation and persons acting under the instructions of the board of directors or Executive Director are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty or function under this or any other enactment.

PART 2

FUNCTIONS OF THE MUNICIPAL ASSESSMENT CORPORATION

14 Functions

(1) The board of directors is responsible

(a) for establishing those systems, methods and procedures that are necessary for the Corporation to carry out its functions under the *Property Assessment Act* and regulations made under that Act;

(b) for providing information to the public about the systems, methods and procedures it establishes, and about valuation and assessment of property and businesses generally;

(c) for conducting research and establishing education and training programs into methods of assessment and valuation;

(d) for maintaining and providing a resource centre related to assessment and valuation;

(e) for establishing and maintaining educational and training programs for assessors, and maintaining their professional standards and continuing education, or co-operating with others for those purposes, or both;

(f) for establishing codes of conduct and good practice for assessors, or co-operating with others in establishing and maintaining the codes, or both;

(g) for engaging in any other activity related to valuation and assessment that is directed by the Lieutenant Governor in Council or by an enactment.

(2) The board of directors

(a) must establish such regional and local offices of the Corporation that the board considers necessary;

(b) must establish methods of assessment from which municipalities

can chose in order to establish an assessment base on which to impose special taxes, business taxes, Provincially authorized municipal taxes or local improvement taxes, under the recommended *Municipal Government Act*;[2]

(c) must establish

(i) one or more methods or systems of classification of property or businesses, or both, or

(ii) particular types, classifications or subclassifications of property or businesses,

or both, for adoption by municipalities under the (proposed) *Property Assessment Act*;[3]

(d) may authorize its employees to perform services or functions other than those required by an enactment.

15 Rules for release of information and other functions

The board of directors may make rules

(a) governing the release of information contained in valuation and assessment records, or part of them, that are required by a person to prepare for a hearing under the (proposed) *Property Assessment Act*, and imposing conditions on the release of information;

(b) governing when valuation or assessment records are not to be released without a notice to do so by a Board of Revision or Appeal Panel under the (proposed) *Property Assessment Act*;

(c) respecting any matter it considers necessary in the performance of its functions or the functions of assessors in conducting valuations or assessments, or related matters.

2 See section 46(1)(e) of the (proposed) *Property Assessment Act*.

3 See section 13 of the (proposed) *Property Assessment Act*.

PART 3

AUTHORITY OF ASSESSORS

16 Powers of assessors

(1) At reasonable times an assessor may, for the purposes of making a valuation or assessment under the (proposed) *Property Assessment Act* or another enactment or determining liability to or exemption from valuation or assessment, and matters related,

(a) enter and inspect property and businesses,

(b) request the owner or occupier to produce records, documents and samples, and

(c) make copies of records and documents, and take samples.

(2) An assessor must produce identification when requested to do so.

17 Power to request information

A person must give an assessor any information requested by the assessor in order for the assessor

(a) to decide whether property or a business is liable to valuation or assessment, or exempt from valuation or assessment, under the (proposed) *Property Assessment Act* or another enactment;

(b) to make a valuation or assessment of property or business or to obtain other information required to be included on a roll required or permitted to be prepared under the (proposed) *Property Assessment Act* or another enactment.

18 Court authorized inspections and enforcement

(1) The Alberta Municipal Assessment Corporation may apply to the Court of Queen's Bench, by originating notice, for an order under subsection (2) if a person

(a) refuses to allow an entry or inspection by an assessor,

(b) refuses to produce anything to assist the entry or inspection,

(c) interferes with the entry or inspection, or

(d) refuses to comply with a request for information.

(2) The Court may make an order

(a) restraining a person from preventing or interfering with an assessor's entry or inspection,

(b) requiring the production to an assessor of anything to assist the entry or inspection, or

(c) requiring compliance with a request for information by an assessor.

(3) A copy of the originating notice and a copy of each affidavit in support must be served at least 3 days before the day named in the notice for hearing the application.

(4) In emergency situations or in extraordinary circumstances the court may hear the application without notice to any person.

19 Information from Government sources

A Minister, a deputy Minister, an emanation[4] of the Crown, or a municipality must comply with a request by the Alberta Municipal Assessment Corporation for information necessary to carry out an assessment or valuation, or to determine liability to or exemption from valuation or assessment, under the (proposed) *Property Assessment Act* or another enactment.

20 Information held by the Municipal Assessment Corporation

(1) Information obtained by the Alberta Municipal Assessment Corporation or an assessor under this or another enactment is to be kept confidential unless

4 "emanation" means anything created by the Government like boards and agencies, and Crown corporations.

(a) it can be given out in accordance with this or another enactment, or

(b) it is used or made public in a way which does not identify the specific persons, property or businesses to which the information relates.

(2) Information in the form described in subsection (1)(b) can also be sold by the Corporation.

21 Failure to give information

A person who is able to do so but who does not give the information required to be given under this Act is guilty of an offence and liable on summary conviction to a fine of not more than $5000, and in default of payment to imprisonment for not more than 6 months, or both fine and imprisonment.

PART 4

FINANCIAL MATTERS

22 Raising revenue

The board of directors may raise revenue

(a) by charging a reasonable fee for services or information it provides or is required to provide under this or any other enactment, and by charging fees for other services or functions provided or undertaken by its employees, and

(b) by a requisition under section 241(1)(b) of the recommended *Municipal Government Act*, approved under section 24 of this Act.

23 Alberta Assessment Fund

(1) The Alberta Assessment Fund is established.

(2) The Alberta Assessment Fund must be held and administered by the board of directors and a separate accounting record must be kept for it.

24 Requisitions for the Alberta Assessment Fund

(1) Subject to the approval of the Lieutenant Governor in Council, the board of directors may requisition municipalities by

(a) establishing one or more rates for different classes or subclasses of property or businesses, and

(b) specify the municipality or status of municipality to which each rate or rates apply,

and in each case may specify the one or more calendar years in respect of which the rate or rates are to apply.

(2) Each municipality must pay into the Alberta Assessment Fund annually a sum of money equal to the total of the requisition under subsection (1).

(3) The *Regulations Act* does not apply to a requisition or approval under subsection (1).

25 Payment to the Alberta Assessment Fund

(1) The board of directors must notify each council by February 1 of each year, or as soon as possible after that date, of the amount the municipality is required to pay into the Alberta Assessment Fund.

(2) Each council must pay the amount required of it on or before July 1 of each year, or within 30 days of the notification, whichever last occurs.

26 Payments into and out of the Fund

(1) At the request of the Minister, there must be transferred into the Alberta Assessment Fund any money voted for that purpose by the Legislature.

(2) There must be paid out of the Alberta Assessment Fund the sums authorized by the board of directors to the persons specified by it for any purpose related to

(a) the management, operation, administration and functions of the

Alberta Municipal Assessment Corporation, or

(b) enabling any special studies or activities related to valuation or assessment to be carried out.

(3) Money in the Alberta Assessment Fund at the end of the fiscal year remains in the Fund for use in subsequent fiscal years.

27 Costs and expenses

The costs and expenses of the Alberta Municipal Assessment Corporation must be paid out of

(a) money appropriated by the Legislature for that purpose, and

(b) revenue raised by the Corporation.

28 Investments

The Alberta Municipal Assessment Corporation may, with respect to the Alberta Assessment Fund, be designated as a depositor to the Consolidated Cash Investment Trust Fund under the *Financial Administration Act*.

29 Financial Administration Act not to apply

(1) Subject to subsection (2), the *Financial Administration Act* does not apply to

(a) the board of directors, Alberta Municipal Assessment Corporation, the Alberta Assessment Fund, nor to any expenditures from the Fund, payment into the Fund or activity in relation to the Corporation or the Fund,

(b) a person administering, receiving or disbursing money in relation to the Alberta Assessment Fund, or

(c) the money appropriated by the Legislature for the purposes of the Corporation once it is paid into the Fund.

(2) Section 52 of the *Financial Administration Act* and other provisions of that

Act relating to the Consolidated Cash Investment Trust Fund apply.

30 Financial year

The financial year of the Alberta Municipal Assessment Corporation is April 1 to the following March 31.

31 Audit

(1) The Auditor General is the auditor of the Alberta Assessment Fund and the Alberta Municipal Assessment Corporation.

(2) As soon as practicable after the end of each financial year there must be prepared an audited financial statement of the Corporation, and the Alberta Assessment Fund, for the preceding financial year.

32 Report to the Legislative Assembly

(1) The board of directors must, as soon as practicable after March 31 each year, prepare a report for the Minister summarizing its activities during the preceding calendar year.

(2) On receipt of the report the Minister must lay a copy of it before the Legislative Assembly if it is sitting, and if it is not sitting, within 15 days after the next sitting starts.

Coming into force

33 Transition

The Lieutenant Governor in Council may make regulations

(a) governing the initial operation of the Alberta Municipal Assessment Corporation and its functions;

(b) respecting the transfer of staff employed by the Crown in right of Alberta and municipalities to the Corporation, if required;

(c) respecting transitional arrangements for pension and employee benefits under any other enactment;

(d) generally to implement the spirit and purpose of this Act.

34 Commencement

This Act comes into force on Proclamation.

NOTE TO READER: Amendments may be required to the *Local Authorities Pension Act* and the *Public Service Management Pension Act*.

Schedule

Specially defined words

Definitions

In this Act

"***assessed property***" has the same meaning as it has in the *Property Assessment Act* and includes anything else that is assessed or valued by an assessor;

"***assessor***" means a person appointed as an assessor by the board of directors under section 12;

"***board of directors***" means the board of directors of the Alberta Municipal Assessment Corporation;

"***director***" means a person who is appointed as a director on the board of directors;

"***Minister***" means the Minister of Municipal Affairs;

"***municipality***" has the same meaning as it has in the recommended *Municipal Government Act*;

"***property***" means land and improvements, and linear property, as those terms are defined in the (proposed) *Property Assessment Act*.